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UNITED PUBLIC WORKERS,  
AFSCME, LOCAL 646, AFL-CIO

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

JEANNE ENDO,	)	CIVIL NO. CV03-00563 LEK
	)	
Plaintiff,	)	DEFENDANT UNITED PUBLIC
	)	WORKERS' MEMORANDUM IN
vs.	)	OPPOSITION TO THIRD-PARTY
	)	DEFENDANT GARY W.
UNITED PUBLIC WORKERS,	)	RODRIGUES' FIRST MOTION IN
AFSCME LOCAL 646, AFL-CIO,	)	LIMINE TO BAR ALL
	)	TESTIMONY OR EVIDENCE
Defendant,	)	REGARDING GARY RODRIGUES'
	)	CONVICTION IN <u>U.S. V.</u>
vs.	)	<u>RODRIGUES</u> , CR. NO. 01-00078;
	)	CERTIFICATE OF SERVICE
GARY W. RODRIGUES,	)	
	)	
Third-Party Defendant.	)	
	)	
	)	TRIAL DATE: May 13, 2008

DEFENDANT UNITED PUBLIC WORKERS' MEMORANDUM IN  
OPPOSITION TO THIRD-PARTY DEFENDANT GARY W. RODRIGUES'  
FIRST MOTION IN LIMINE TO BAR ALL TESTIMONY OR EVIDENCE  
REGARDING GARY RODRIGUES' CONVICTION IN U.S. V. RODRIGUES,  
CR. NO. 01-00078

Defendant United Public Workers, AFSCME Local 646, AFL-CIO (“UPW”) requests that the Court deny THIRD-PARTY DEFENDANT GARY W. RODRIGUES' FIRST MOTION IN LIMINE TO BAR ALL TESTIMONY OR EVIDENCE REGARDING GARY RODRIGUES' CONVICTION IN U.S. V. RODRIGUES, CR. NO. 01-00078, filed April 22, 2008, for the reasons set forth below:

1. Per FRE Rule 609(a)(2), evidence of the criminal conviction is admissible to impeach Mr. Rodrigues' testimony that UPW agreed to defend and indemnify him in this lawsuit.

2. Evidence regarding the criminal case is also relevant to the parties' motives. Plaintiff was an important government witness in the criminal case against Mr. Rodrigues. Arguably, Mr. Rodrigues' criticism of Plaintiff's work or any efforts to fire her were to discredit her or punish her for “disloyalty,” not because of any refusal to have sex as Plaintiff claims. Also, Plaintiff claims she brought her sex harassment claims in April 2002, not earlier, because she felt she had some leverage against Mr. Rodrigues due to the pending criminal indictment and Mr. Rodrigues

was less likely to retaliate and fire her. (Endo deposition transcript, p. 130.) However, the indictment was filed a year earlier, March 2001, supporting that Plaintiff could have brought her claims much earlier and that she was really motivated to bring her claims in April 2002 for other reasons.

For these reasons, the fact of the indictments and conviction is an important part of the time line in this case and should be admitted.

DATED: Honolulu, Hawaii, April 29, 2008.

/s/ Charles A. Price  
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